

**Written Testimony Submitted for the Record
to the
HOUSE VETERANS AFFAIRS COMMITTEE
OVERSIGHT HEARING ON MILITARY SURVIVING FAMILIES
January 30, 2024**

**Expressing Concerns regarding Policies Implemented by the
Department of Veterans Affairs for Dependency and Indemnity
Surviving Spouse Recipients**

**Submitted by Laura Lehigh as
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Dependency and Indemnity Recipients Group
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**As an Independent Citizen Advocate Laura Lehigh has received no
compensation of any kind for this testimony**

INTRODUCTORY STATEMENT

My name is Laura Lehigh of Kalamazoo, Michigan. I am the widow of 1LT Michael Schmidt, a Vietnam combat veteran whose death in 1971 was directly attributed to complications from combat wounds. As administrator of a vibrant Facebook social media group of more than 2,000 Dependency and Indemnity Compensation (DIC) spouse beneficiaries, I read comments and questions daily about survivor benefits administered through the Department of Veterans Affairs (DVA).

I am one of the few remaining pre-1993 rank-based DIC recipients whose financial dependency on our late spouses was determined and grandfathered in statute in previous DIC reform efforts.

In 1993 DIC was changed from a rank-based payment system to a flat rate system. The purpose behind the change was to improve benefits for the widows of lower-paid servicemembers. Payments were increased for survivors of ranks E1-E6 up to a new “flat rate” that then became the basis for all future DIC payments. Today, new DIC recipients are paid at the same flat rate. Some, depending on circumstances, are eligible to receive “add-ons” that increase their monthly compensation.

Since the 1993 change, a small subset of rank-based DIC recipients remains. By latest count there are about 51,072 pre-1993 rank-based widows. Of that number, 34,452 are survivors of lower ranking servicemembers. For those widows, the DIC payment is the same as that of all new flat-rate beneficiaries. If there is an increase to the DIC flat rate, they will get the increase in full. The remaining 16,572 widows, however, are the rank-based spouses who presently receive DIC at a rate higher than the current flat rate. These DIC spouses are often at risk of losing all, or a portion, of their earlier-grandfathered rank-based dependency amounts whenever changes are made to increase DIC. Congress must ensure that this does not happen. A simple solution would be to recharacterize the grandfathered rank-based dependency amounts as add-ons.

IN MORE DETAIL: IT’S OFTEN A MATTER OF POLICY, BUT IT’S ALWAYS A MATTER OF PRINCIPLE

As a matter of policy, DVA must adhere to and maintain the original intent of its programs.

In 1993, when Congress replaced the old rank-based system with a new, flat-rate system, DIC became an indemnification payment only.

The intent of the original DIC program was explained in testimony presented to the House Veterans Affairs Subcommittee on Benefits on April 11, 2002. Daniel Cooper, then Under Secretary for Benefits at the Department of Veterans Affairs, described how rank-based payments originally factored in when DIC was created. Excerpt follows:

“... in a 1955 report, H.R. Rep. No. 84-993, that, “these two separate and distinct survivor benefit programs . . . would become one. To this limited extent one of the objectives of the committee, greater simplicity, would be accomplished and the long-term interest and equity of survivors protected.” This Act established a monthly DIC rate for widows consisting of a fixed rate plus a percentage of the basic pay prescribed for the deceased servicemember’s pay grade and length of service. It is apparent from this Committee Report that the fixed rate represented the “indemnity” or reparation element of the compensation and the percentage of the deceased servicemember’s basic pay represented the “dependency” or income-replacement element.”

As a matter of policy, the Department of Veterans Affairs must ensure that new legislation always supports the fair and equitable nature of existing benefits among surviving spouses.

Often, when Congress enacts new laws, disparities in benefits result for military surviving spouses. Even more concerning is when newly written laws have the effect of reducing or removing a grandfathered benefit.

In 1993 “Old Law” DIC recipients had their “dependency” portions grandfathered in statute. Today protected rank-based payments are a combination of both elements of the original program: the “rank based dependency” amount, and the new “indemnification” amount. The indemnification portion, which is equal to the current flat rate, is now inherent in the total of each grandfathered rank-based payment.

Because the dependency portion was based on rank, pre-1993 still-existing rank-based payments vary. Pre-1993 rank-based widows are the most elderly and often, the most financially vulnerable DIC recipients. Many of them rely on DIC as a primary source of income. Future Dependency and Indemnity policy changes must always respect the long-term interest and equity of all survivors.

As a matter of policy, Congress should create laws that reflect parity with other Federal survivor programs.

DIC is currently calculated at 43% of the 100% disabled veteran compensation. Other federal survivor programs provide up to 55% of the deceased employee’s retired pay. When viewed through the lens of a survivor benefit payment, the well-being of a veteran’s surviving spouse appears to be of less concern to policy makers than the well-being of a survivor of a federal retiree.

Keeping faith with veterans and survivors should always be paramount.

When new bills are considered for implementation by the Department of Veterans Affairs, keeping faith with those whom DVA serves should always come first. If new legislation penalizes even a small number of beneficiaries, that legislation breaks faith. The 16,572 pre-1993 rank-based spouses at E7 rank and higher represent only 3.5% of all DIC beneficiaries. If that group suffers a monetary disparity in the amount of DIC increase they receive, an injustice occurs. And while the effective “loss” in indemnification increase dollars will differ among those E7 and higher spouses due to the blending in of their varied dependency amounts, an even more insulting injustice will be inflicted upon 1,822 rank-based DIC recipients who will see no increase at all. All DIC spouses should receive the same dollar amount of increase.